



DEPARTMENT OF THE NAVY

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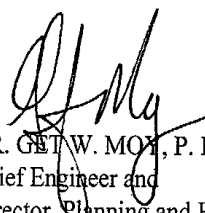
17 NOV 1998

From: Commander, Naval Facilities Engineering Command

Subj: AFFIRMATIVE PROCUREMENT POLICY ON EPA DESIGNATED PRODUCTS

Encl: (1) Planning and Design Policy (PDP) Statement 98-04, NAVFAC Participation
in the Affirmative Procurement of EPA Designated Products, dtd 12 Oct 98

1. Enclosure (1) identifies specific procedures for NAVFAC participation in the affirmative procurement of EPA designated products. These procurement requirements are effective immediately and are applicable to all purchases regardless of location, funding source or procurement method.
2. An Affirmative Procurement Program has been established within the Federal Government to promote the purchase of products containing recovered materials. The intent is to reduce the solid waste stream and conserve natural resources by establishing markets for recycled content products and encouraging manufacturers to produce quality products containing recovered materials. Federal agencies are required to give first preference to EPA designated products if they are competitively priced, available in a reasonable timeframe and meet performance standards. DOD, SECNAV, and OPNAV policies are to allow EPA designated products to compete in all Navy procurement actions.
3. NAVFAC points of contact are Mr. Trueman Seamans, P. E., at (757) 322-4210, DSN 262, fax 4416, or seamans@efdlant.navfac.navy.mil and Mr. James Long, R. A., at (202) 685-9171, DSN 325, fax 1583, or longjd@hq.navfac.navy.mil.


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NAVAL FACILITIES ENGINEERING COMMAND
PLANNING AND DESIGN POLICY STATEMENT 98-04

NAVAL FACILITIES ENGINEERING COMMAND (NAVFAC)
PARTICIPATION IN THE
AFFIRMATIVE PROCUREMENT OF EPA DESIGNATED PRODUCTS

12 October 98

References:

- a. Resource Conservation and Recovery Act (RCRA), Section 6002, 42 USC 6901
- b. Executive Order 13101, Greening the Government through Waste Prevention, Recycling, and Federal Acquisition, dated 14 Sep 98
- c. EPA Comprehensive Procurement Guidelines I/Recovered Materials Advisory Notice I, dated May 95
- d. EPA Comprehensive Procurement Guideline II/Recovered Materials Advisory Notice II, dated Nov 97
- e. Office of the Under Secretary of Defense Brochure, titled Recycling, Waste Prevention and Acquisition Benefit the National Environment, dated Jul 95
- f. Under Secretary of Defense Memorandum titled, Preference for Environmental Protection Agency (EPA) Guideline Items, dated 25 Aug 94
- g. Office of the Assistant Secretary of the Navy Memorandum titled, Affirmative Procurement Program for Items Containing Recovered Materials, dated 5 Sep 96
- h. OPNAVINST 5090.1B, Environmental and Natural Resources Program Manual, dated 2 Feb 98
- i. NAVFAC Planning and Design Policy Statement 98-01, Design of Sustainable Facilities and Infrastructure, dated 18 Jun 98
- j. NAVFAC Planning and Design Policy Statement 98-02, Criteria Supporting the Design of Sustainable Facilities and Infrastructure, dated 18 Jun 98
- k. NAVFAC Planning and Design Policy Statement 98-03, Procurement of Sustainable Facilities and Infrastructure through Architect-Engineer (A-E) and Related Contracts, dated 18 Jun 98
- l. Federal Acquisition Regulation, 48 CFR Parts 1, 10, 11, 13, 15, 23, 36, 42 and 52
- m. EPA Comprehensive Procurement Availability Lists, Oct 97
- n. Items Designated in the Comprehensive Procurement Guideline-Supporting Analysis, U.S. EPA Office of Solid Waste, dated Apr 95
- o. Final CPG II/RMAN II Background Document, dated Nov 97

Purpose:

This Planning and Design Policy (PDP) Statement establishes NAVFAC participation in the Federal Affirmative Procurement Program for Environmental Protection Agency (EPA) designated products. This PDP statement will assist procuring agents in

complying with regulations and DOD, SECNAV, and OPNAV policies during facilities acquisitions.

Background:

An affirmative procurement program within the Federal Government promotes the purchase of products containing materials recovered from the solid waste stream. The intent is to conserve resources and reduce solid waste by developing markets for recycled products and encouraging manufacturers to produce quality recycled content products at competitive prices.

EPA promulgated regulations in the 1980's requiring Federal procurement of concrete containing fly ash and insulation containing various recovered materials in the facility construction area in response to requirements in the Resource Conservation and Recovery Act (RCRA) Section 6002 (reference a). Executive Order 12873 (reference b), using RCRA as legal basis, strengthens the role of the Federal Government as an environmentally conscious consumer and requires Federal procurement of current and future EPA designated products containing recovered materials.

EPA promulgated the Comprehensive Procurement Guideline (CPG) I and Recovered Materials Advisory Notice (RMAN) I dated May 1995 (reference c), re-designating concrete and insulation and adding structural fiberboard, laminated paperboard, carpet, floor tiles, patio blocks, playground surfaces, running tracks, and hydraulic mulch all in the construction area. The RMAN provides guidance on percent of recovered material that is practical for each designated product. In November 1997 CPG II and RMAN II (reference d) designated additional products including restroom dividers and latex paint in the construction area.

A Department of Defense (DOD) brochure (reference e) describing the Affirmative Procurement Program dated July 1995 was prepared by the National Defense Center for Environmental Excellence (NDCEE). Copies of the brochure can be obtained by calling NDCEE at (814) 269-2763.

The Navy sponsored an environmental design workshop in September 1995 during which Affirmative Procurement was identified as a high priority item for implementation. Workshop participants also noted the need to be proactive by identifies and promoting the use of additional products containing recovered materials to an extent greater than required by EPA. DOD policy is that one hundred percent (100%) of purchases of EPA designated products will meet or exceed the guideline standards for recovered material (reference f).

The Office of the Assistant Secretary of the Navy (ASN) is preparing a SECNAVINST establishing the Navy affirmative procurement program for EPA designated products. ASN issued interim guidance dated 5 September 1996 identifying Navy affirmative procurement requirements (reference g). Program requirements include specifying the minimum content standard for EPA designated products in contract documents, obtaining

a written determination and approval when purchasing an EPA designated product not meeting the minimum content standard, establishing a formal promotion program and requirements for contractor estimates, certifications, and Government verification. ASN notes that compliance with the Navy affirmative procurement program will be a special interest item on command inspections and environmental compliance evaluations.

The Office of the Chief of Naval Operations issued OPNAVINST 5090.1B (reference h) which requires NAVFAC to revise specifications to ensure contract deliverables meet the affirmative procurement guidelines for recycled material content. The affirmative procurement of EPA designated products is also discussed in three NAVFAC Planning and Design Policy Statements (references i, j, and k).

Policy Statement:

One hundred percent of NAVFAC purchases of EPA designated products will meet or exceed the EPA guideline standards for recovered content. The only exception to this policy for purchase of EPA designated products is when the product can not meet performance requirements, is available at too high a cost, is not available to meet project schedules or there are not enough sources to maintain competition.

Action and Procedures:

Implementation of the affirmative procurement policy for EPA designated products requires the following actions:

- Designers will prepare project specifications and other appropriate contract documents specifying the use of products that meet or exceed the EPA guideline standards for recovered content as required by the FAR (reference l).
- Procurement agents are required to obtain a written determination and approval when EPA designated products are purchased that do not meet the recovered materials advisory notice (references c and d) standards for recovered content. The justification must be based on one of the following conditions being applicable to products that do meet the standards for recovered content:
 - > The product is not available at a reasonable cost
 - > The product does not meet appropriate performance standards
 - > The product is not available within a reasonable time frame
 - > There are not enough sources to maintain competition

Approving officials will be upper level management such as Division Directors.

- The NAVFAC Criteria Office will perform internal promotion efforts to educate employees about the requirements such as publishing articles in newsletters, conducting workshops and training sessions and providing information on Internet homepages.
- Procuring activities will perform external promotion activities to educate contractors about the requirements such as placing statements in solicitations and briefings at bidders conferences. The affirmative procurement requirements will be included in Architect-Engineer (A-E) Guides and included as topics at A-E symposiums.
- Procuring activities will require contractors to provide up front estimates of the recovered content in EPA designated products and certifications of these original estimates, with adjustments noted, after product delivery or installation.
- The Contracting Officer will verify recovered content during construction inspection activities.
- The NAVFAC Criteria Office will track regulatory requirements and work with preparing activities and the NAVFAC Guide Specifications Division to incorporate the EPA guideline standards for designated products into the NAVFAC Guide Specifications database.

Availability lists of manufacturers (reference m) and EPA research on product usage (references n and o) are on the Construction Criteria Base (CCB) under Libraries, Documents, NAVFAC Criteria and then Affirmative Procurement. These references are also on the NAVFAC Criteria Office homepage at http://www.efdlant.navfac.navy.mil/Lantops_15/home.htm. EPA designation of products through promulgation of regulations and advisory notices will be an ongoing process. Agencies have one year from the date of the final rules to implement affirmative procurement programs for newly designated products.

Waivers of Policy:

Waivers of the Federal Affirmative Procurement Program requirements for EPA designated products containing recovered materials will not be granted.

Points of Contact:

NAVFAC Headquarters POCs for affirmative procurement of EPA designated products are:

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